

Procurement Modernization Commission Meeting
Wineland Building, 4th Floor Conference Room
August 25, 2016
3:00pm

Attending: Lt. Governor, Secretary David Brinkley, Secretary Jimmy Rhee, John Gontrum, Shelia McDonald, Delegate Chris West, Sheryl Brissett- Chapman, Susanne Brogan, Eric Reglin, John Molnar, Ronald Lipford, Mike Zimmerman, Al Bullock, Secretary Ellington Churchill, Eileen Straughan, Delegate Dan Morhaim, Senator Steve Waugh

Not Attending: Senator Jim Rosapepe, Secretary David Garcia, Matthew Solomson

Motion to approve minutes
Motion Approved

Secretary of the Governor's Office of Minority Affairs, Jimmy Rhee, discusses recommendations from the Initiatives Subcommittee co-chaired by the Department of General Services and the Governor's Office of Minority Affairs:

Task 1: Expand Small Business Reserve (SBR) Program 23 to 70 Agencies

- It is recommended that the current SBR law be amended to add the attached list of 31 procuring units to the existing 23 designated SBR agencies. The 31 new units are already subject to MBS Program requirements and annual reporting. If the 31 new units are added, the actual final count of separate SBR procuring units as follows:
 - 19 single agencies
 - 7 MDOT Transportation Units
 - 11 University Campuses
 - 31 New Procuring Units

Task 2: Expand Small Procurement Limit and Single Purchase Limit for Purchasing Cards

- Considering the best practices of 4 of the 5 top ranked states and the efficiencies to be gained, it is recommended that the current small procurement threshold should be raised from 25k to 50k statewide, and from 50k to 100k for DGS construction.
- The committee recommends continuing to advertise in eMM over 15k for not less than 5 days. Formal advertising over the small procurement threshold will remain at 21 days.

Task 3: Streamlining the Minority Business Enterprise Certification Process

- Multiple meetings were held to allow workgroup members to become familiar with the current processes and workflow in place at the MDOT Office of Minority Business Enterprise (OMBE).
- Based on feedback from the workgroup, there is a need for MDOT's MBE certification process to be modified for the purpose of:
 - o Increasing applicants' access to information regarding application status and overall certification process
 - o Decreasing the current average turnaround time for issuing certification determinations
 - o Eliminating unnecessary steps that lengthen the process, e.g. all-or-nothing NAICS code approval
 - o Improving the overall level of customer service delivered to applicants

The subcommittee offers the following recommendations to the Commission to address the above reference concerns:

- Given the current federal DBE Program's requirements regarding verifying ownership and control of a business cannot be modified, it is recommended that the MBE and DBE certification processes be separated so that MBE certification can be accomplished in a more expedited fashion.
- For both MBE and DBE certification, eliminate the current Minority Business Enterprise Accreditation Committee (MBEAC)
- In cases where the approval of certain NAICS codes is in question, the process should be modified to allow the applicant to provide evidence supporting the inclusion of the questionable codes, and engage in discussion with the investigator and Director before a decision is made.
- Expand the use of technology to better train and inform applicants on the entire certification process
- Require MBEAC to provide applicants with specific questions and concerns related to business ownership and control prior to the final MBEAC interview
- Prior to receiving final certification notification from OMBE, require all new and renewal applicants to complete and submit a customer service survey to the Governor's Office of Minority Affairs that measures the transparency, efficiency and integrity of the certification process.

Task 4: Establish Standards Allowing the State to Obtain Best Value Instead of Lowest Bid

- Change the current preferred procurement method from Competitive Sealed Bidding to Multi-Step Sealed Bidding, or
- NASPO (National Association of State Procurement Officials) guidelines, as a best practice
- Leave the current preference for CSB as is, but ensure that procurement officers are fully trained on how to properly use the CSB method to get the best value for the state.

Task 5: Regional vs. Statewide Procurements

- Based on vendor input to the Commission, the single award, statewide coverage approach to procurement has a negative impact on small businesses who are otherwise capable of performing work on a regional scale.
- Recommendation: With proper training of procurement staff, a written Policies and Procedures manual, and accountability measures in place, the issue should resolve itself. The chief procurement officer and/or control agencies will need to monitor and assess procuring units' use of regionalization and suggest its use early on in the procurement development process.

Task 6: Use of Intergovernmental Cooperative Purchasing (IGCP) by State Agencies

- On Jun 14, 2016 DGS was asked to review all its Intergovernmental Cooperative Purchasing Agreements to ensure the State is not entering into them merely out of convenience and Procurement Officers are performing market research and there are cost savings.
- In addition the ICPAs procured by DGS must meet the requirements of COMAR.

Secretary of the Department of General Services, Ellington Churchill, discusses recommendations from the Initiatives Subcommittee co-chaired by the Department of General Services and the Governor's Office of Minority Affairs:

Task #7: Use of state-sponsored preference purchasing programs

(GOMA contributed MBE/SBR input, DGS provided other input)

The preference programs considered under this task are as follows:

- a. Minority Business Enterprise
- b. Small Business Reserve
- c. Small Business Preference
- d. Preferred Providers
 - (1) Maryland Correctional Enterprises (MCE)
 - (2) Blind Industries and Services of Maryland (BISM)
 - (3) Community Service Providers through Maryland Works
 - (4) Individual with disability owned business
- e. Veteran Small Business Program
- f. Green Purchasing

Secretary of Department of Budget and Management, David Brinkley, discusses recommendations:

- Since the group's last meeting on July 28th, the Workforce Workgroup held two meetings: August 11th and this morning, the 25th.
- At those meetings, the Workgroup focused on developing and refining the draft recommendations related to the Workforce Workgroup Tasks as drawn from the Executive Order:
 - o Creating, distributing, and maintaining a proposed procurement training manual and best practices
 - o Attracting and retaining talented procurement staff
 - o Developing appropriate State-specific training to ensure that this talented staff has the necessary information and resources to conduct procurements in accordance with Maryland procurement regulations and practices; and
 - o Creating procurement web pages that are more intuitive and informative to the using communities of businesses and procurement staff and offer training specific to the business community.
 - o These recommendations will be submitted for the full Commission's review by the September 15th deadline.

Recommendations in Relation to Other Workgroup Recommendations:

- As part of these discussions, the Workforce Workgroup members thought it advisable to schedule a day when all of the Commissioners can review the recommendations of the workgroups collectively.
- Because many of the tasks of the workgroup overlap, it was suggested that this meeting could be facilitated by a professional facilitator with the outcome of harmonizing the recommendations so that they would transfer into a cohesive and organized final report.
- The workgroup would suggest scheduling this meeting after the recommendation deadline of September 15th and securing a facilitator for this purpose.

Recommendations in Relation to Discussion of Procurement Structure:

- Also as part of the Workgroup discussions, it has been noted that implementation specifics of some of these recommendations depend on whether the decentralized structure of Maryland's procurement will change.
- For instance, with the training recommendation, are we looking at delivering a centralized procurement office or through control agencies?
- The Workforce Workgroup favors some form of a centralized procurement and information structure.
- As all of the workgroups are considering the structure of procurement and as this structure may affect the drafting of the recommendations, the workgroups may benefit from a consensus as to whether the Commission contemplated a centralized or decentralized procurement structure as they finalize their recommendations.
- Delegate Dan Morhaim states the MDIC interview process can be intimidating. Would there be standardized questions?
- James Butler states that questions are industry specific.

Mike Zimmerman Reports on the Sub-Group

Commonality:

- The team is realigning the order of the sections of the RFP to create an efficient flow. The vendor community is assisting in the effort.
- They are still reviewing the process to determine if there is any other efficiency that can be achieved. It is looking like there will be one RFP template for services and one for IT, but one contract document.
- A+E team began to review actual requirements with emphasis on reducing effort and cycle time. We have received information with regard to other states best practices through NASPO and are reviewing to determine if we can model what is working elsewhere.
- Conversations with Maryland firms to obtain input on process efficiency have been ongoing.
- The team is reviewing the use of the RFP model currently being developed to see if it can be incorporated into the A/E process to further standardize the process.
- A number of recommendations regarding process efficiency and cycle time reduction are forthcoming.
- As the commission has heard and we have as well through conversations, there seems to be much concern focused on the University Systems process.

Technology:

- Spread sheets of current systems functionality and available functionality have been developed.
- The team has prioritized the functionality so the commission can see where gaps exist.
- For the purpose of the gap analysis, systems have been broken into three categories: Financial, eProcurement, and Contract Management.
- The team has identified the desire to have a new system or module (Contract Management) that would allow the procurement officer to manage the contract development process including attributes such as templates, clause libraries, and workflow.

- We do believe that the new, easier to use, cloud based, integrated software would allow the state to realize significant savings through cycle time reduction, system enhancement, and a more efficient use of resources.

Reducing Overload:

- A spread sheet which identifies reports and documents related to the procurement process has been created, reviewed and sent to the stakeholders for input. There were only a couple of reports that are believed to be able to be stopped, but there are a number of recommendations related to automating them etc.
- Reduce Frivolous Protests – received research from other entities that have enacted various reforms. There was a lot of research done on this and unfortunately most states have not taken any action with regard to curbing frivolous protests.
- We reaching out to the MSBCA and received data on Maryland protests.
- The MSBCA only receives about 25 to 30 protests of which less than 10 are actually heard by the board per year.

Andrew Ross with the Children's Guild

- We appreciate the Commission's goals and timeframe and want to be supportive of their process
- We urge the Commission to recognize that the purchase of human services – services for children specifically in our case – is different from the purchase of commodities and many other services.
- In purchasing human services, allowing flexibility needs to be built in so that each individual child's family's unique needs can be met. We realize the complexity this creates.
- Contracting should be performance-based and measured by outcomes not process indicators as is currently the case with some contracts.
- Contracting should recognize the concept of value – taking price and performance into account rather than simply the lowest price.
- Full funding of programs is the only way to do performance based contracting based on the concept of value. Without full funding, programs have to make compromises in order to stay in business and outcomes and value are then sacrificed.
- Sec. Brinkley asks if there are ways we can improve contracts.
- Andrew Ross responds stating when we deal with the recreating level and sophistication determines outcomes. Aspects that have to deal with building.

Scott Livingston – Maryland Procurement Attorney

- Discusses changes that should be made in drafting procurement laws.
- Need new methods of source selection, need more competitive negotiations.
- Lowest price acceptable, Maryland used to do two step bidding.
- Bridge Contracting, once end of option year contract expires and there was no legal basis for extension

Elizabeth Britt – Women Owned Small Business

- She has found that in Florida, Connecticut, Texas, etc. she can't register as an MBE
- Need more states to be open to Maryland MBE certification
- There are 67 businesses in New Jersey that are unable to bid

Lt. Governor Closing Remarks

- Workgroups will submit recommendations on September 15th and the next workgroup meeting will convene on September 20th